

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

MILLERCOORS, LLC,

Plaintiff,

v.

ANHEUSER-BUSCH COMPANIES, LLC,

Defendant.

Case No. 19-cv-218

JURY TRIAL DEMANDED

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Plaintiff, MillerCoors, LLC (“MillerCoors”), by and through its attorneys, files this Complaint for Injunctive and Other Relief against Defendant Anheuser-Busch Companies, LLC (“AB”), and in support of its causes of action MillerCoors states as follows:

PRELIMINARY STATEMENT

AB, which makes and sells *Bud Light* beer, has publicly explained that it designed, tested, and launched a false and misleading advertising campaign targeting *Miller Lite* and *Coors Light* in order to deceive beer consumers into believing that there is corn syrup and high-fructose corn syrup in *Miller Lite* and *Coors Light*¹ to increase sales of *Bud Light*. Under the guise of “transparency,” AB singled out MillerCoors use of a common brewing fermentation aid, corn syrup, for a deliberate and nefarious purpose: it was aware that many consumers prefer not to ingest “high-fructose corn syrup” or “HFCS,” and had reportedly conducted extensive focus group testing² in which it found that consumers do not understand the difference between ordinary corn syrup (used by numerous brewers, including AB itself) and HFCS, the controversial sweetener commonly used in soft drinks. Thus, AB plotted an extensive and

¹ Beer Business Daily, *Surprising Draft Stats from Super Bowl '19* (Feb. 7, 2019).

² *Id.*

pervasive advertising scheme designed to frighten consumers into switching away from *Miller Lite* and *Coors Light* to *Bud Light*. And, likely because its focus group studies demonstrated it would work, AB invested an enormous amount of money—over \$13 million in media time to convey the message to nearly 100 million consumers during Super Bowl LIII alone—to perpetuate the consumer confusion.

AB's purported rationale for this campaign, "transparency," is a classic example of corporate double-speak. While claiming to be "transparent," AB purposely fails to inform consumers of these material facts:

- No corn syrup is in the glass, bottle, or can of *Miller Lite* or *Coors Light* that consumers drink;
- Corn syrup and HFCS are different;
- *Miller Lite* and *Coors Light* **never** use HFCS;
- AB also uses corn syrup as a fermentation aid in several of its products across various price points, ranging from above-premium brands (such as Stella Artois Cidre, Stella Artois Spritzer, and Bon & Viv Spiked Seltzer³) to economy brands (Busch, Busch Light, Natural Light, and Bud Ice); and
- AB adds HFCS to several of its other brands (such as Rita's Berry-A-Rita, Best Damn Peach Tea, Best Damn Root Beer, and Natty Rush Mountain Madness).

Therefore here, MillerCoors seeks to set the record straight, enjoin AB's false and misleading advertising claims, and obtain monetary and other relief for damages incurred, under the false advertising and anti-dilution provisions of the Lanham Act, 15 U.S.C. §§ 1125(a) and (c).

³ One of AB's high-profile Superbowl LIII commercials—airing just after the coin toss—was for the Bon & Viv Spiked Seltzer. AB was therefore running an ad for a beverage with corn syrup in its ingredients alongside its ads denigrating the use of corn syrup in the brewing process of *Miller Lite* and *Coors Light*.

INTRODUCTION

1. On February 3, 2019, during Super Bowl LIII—the most widely-viewed television event each year in the United States and garnering nearly 100 million viewers this year—AB premiered a new false and misleading advertising campaign (the “Campaign”) specifically designed to damage the reputation of its main rival, MillerCoors, by deceiving consumers into believing they will consume corn syrup and HFCS if they drink *Miller Lite* and *Coors Light* beers. To be clear, they will not.

2. AB debuted the Campaign with a 60-second spot for *Bud Light* that mocks *Miller Lite* and *Coors Light* for using corn syrup (and perhaps only corn syrup and no other ingredient) in brewing, as contrasted with *Bud Light*, which AB claims is brewed with only water, rice, barley, and hops.

3. AB’s Chief of Marketing for *Bud Light*, Andy Goeler, publicly confirmed AB’s intent to mislead consumers into believing that they will consume corn syrup if they drink *Miller Lite* or *Coors Light*. In an interview with Food and Wine Magazine, Mr. Goeler stated that AB learned through its research that corn syrup is an “ingredient that consumers prefer not to consume if they didn’t have to.”⁴ He added, “some consumers—for their own personal reasons—have concluded that they prefer not putting something like corn syrup, if they had a choice, into their body.”⁵

4. But as AB knows, when consumers drink *Miller Lite* or *Coors Light*, they do not “consume” corn syrup; nor do they put it “into their body.”

5. AB’s Campaign is also designed to take advantage of existing consumer confusion between corn syrup and HFCS. Again, Mr. Goeler publicly revealed this, as reported in Beer

⁴ <https://www.foodandwine.com/beer/corn-syrup-beer-bud-light-commercial>.

⁵ *Id.*

Business Daily, an industry trade publication: “[AB] did focus-group the heck out of this ad, and found that consumers generally don’t differentiate between high fructose corn syrup and corn syrup, and that it is a major triggering point in choosing brands to purchase, particularly among women.” See Ex. A, Beer Business Daily, *Surprising Draft Stats from Super Bowl ’19* (Feb. 7, 2019).

6. AB knew that if it could mislead consumers into believing that *Miller Lite* and *Coors Light* contain corn syrup or HFCS—a “triggering” substance, by AB’s own account—it could frighten them into switching away from those brands in favor of *Bud Light*. And, it spent an enormous amount of money to seize on and reinforce the consumer confusion—over \$13 million in media time to convey the message to nearly 100 million consumers during the Super Bowl LIII broadcast alone.

7. The simple truth is that MillerCoors uses ordinary corn syrup solely in the fermentation process for its *Coors Light* and *Miller Lite* beers. And it does not use HFCS. The yeast used in fermenting the beers requires a food source—some kind of sugar or carbohydrate—in order to grow and carry out fermentation. That is the exclusive role of corn syrup in brewing *Miller Lite* and *Coors Light*. The yeast breaks down and consumes the corn syrup during the fermentation process, and thus, no corn syrup appears in the finished *Miller Lite* and *Coors Light* beer products. And there is no HFCS in any of MillerCoors products.

8. The use of some form of sugar or carbohydrate in beer fermentation is intrinsic to all beer-making. These sugars are converted during fermentation into alcohol, carbon dioxide (which carbonates the beer), and a small amount of residual basic sugars (not corn syrup). *Miller Lite* and *Coors Light* use corn syrup for fermentation instead of other sugars in large part because of its neutral impact on beer taste, which allows the underlying hops and malt to shine through.

9. Incidentally, upon information and belief, AB also uses corn syrup to brew a variety of its own products at a variety of price points, including but not limited to: Stella Artois Cidre,⁶ Stella Artois Spritzer,⁷ Bon & Viv,⁸ Bud Ice,⁹ Busch,¹⁰ Natural Light,¹¹ and Busch Light.¹² AB also uses HFCS in some of its malt beverages, including but not limited to, Rita's Berry-A-Rita,¹³ Best Damn Peach Tea,¹⁴ Best Damn Root Beer,¹⁵ and Natty Rush Mountain Madness.¹⁶ Thus, AB apparently does not contend that corn syrup or even HFCS is harmful to human health. And yet its Campaign encourages consumers to draw that incorrect conclusion.

10. MillerCoors use of corn syrup as a brewing adjunct has never been a secret. And MillerCoors is not ashamed of its use of corn syrup as a fermentation aid. Far from it. The company has a major commitment and partnership with United States farmers who proudly grow the corn that goes into the syrup.

11. To be abundantly clear, **there is no corn syrup** (or HFCS) in the final glass, can, or bottle of *Miller Lite* or *Coors Light* that consumers ultimately drink. However, AB's Campaign is designed to cause consumers to mistakenly conclude that these MillerCoors beers **do** contain corn syrup or HFCS—a conclusion that is demonstrably false. AB purposefully refers to corn syrup as an ingredient in *Miller Lite* and *Coors Light*, conveying the clearly misleading message that corn syrup is present in the beers that consumers drink. It does this to degrade the *Miller Lite* and *Coors Light* brands. AB's Campaign does not educate consumers; it confuses them.

⁶ <https://www.tapintoyourbeer.com/index.cfm?id=390>

⁷ <https://www.tapintoyourbeer.com/index.cfm?id=1127>

⁸ <https://www.tapintoyourbeer.com/index.cfm?id=1280>

⁹ <https://www.tapintoyourbeer.com/index.cfm?id=94>

¹⁰ <https://www.tapintoyourbeer.com/index.cfm?id=95>

¹¹ <https://www.tapintoyourbeer.com/index.cfm?id=91>

¹² <https://www.tapintoyourbeer.com/index.cfm?id=96>

¹³ <https://www.tapintoyourbeer.com/index.cfm?id=1098>

¹⁴ <https://www.tapintoyourbeer.com/index.cfm?id=1094>

¹⁵ <https://www.tapintoyourbeer.com/index.cfm?id=692>

¹⁶ <https://www.tapintoyourbeer.com/index.cfm?id=1268>

12. The Campaign's false statements regarding MillerCoors use of corn syrup is particularly harmful because of the backdrop against which they are made: consumers have become increasingly health-conscious in recent years, and negatively associate corn syrup, particularly the HFCS sweetener added to some soft drinks and some AB beverages, with adverse health effects and an unhealthy lifestyle. As the industry notes, "to imply that corn syrup is somehow worse for you by tacitly tying it into the criticism around high fructose corn syrup as an unhealthy sweetener is entirely misleading."¹⁷

13. Since the launch during the Super Bowl LIII broadcast, AB has aggressively spread its Campaign by spending (upon information and belief) millions of dollars on additional television commercials and misleading corn syrup-themed advertising materials across a variety of media channels, including radio, print, digital, social, out-of-home, and retail. The Campaign is "still resonating" with consumers as of February 28, 2019,¹⁸ and upon information and belief, AB has spent approximately between 24 and 30 million dollars from February 3, 2019 through March 18, 2019 to market and promote its Campaign to U.S. consumers.

14. AB is apparently proud of the confusion it has sown among beer consumers. In a recent Food & Wine Magazine article entitled "Bud Light Is 'Very Happy' With All the Corn Syrup Controversy," *Bud Light's* Mr. Goeler overtly acknowledged that consumers confuse corn syrup and HFCS, and that the Campaign has led to "more searches on Google for corn syrup than ever before."¹⁹ As noted above, Mr. Goeler also acknowledged, in connection with the Campaign, that many consumers prefer not to ingest corn syrup. This again shows that AB is

¹⁷ <https://www.foodandwine.com/beer/corn-syrup-beer-bud-light-commercial>; see also <https://www.forbes.com/sites/willburns/2019/02/25/bud-light-pulled-a-market-share-fast-one-but-it-may-have-backfired/#adcfbdc7a289> ("Well, my ignorance in confusing 'corn syrup' with its evil twin 'high fructose corn syrup' is likely shared by many.").

¹⁸ *Id.*

¹⁹ <https://www.foodandwine.com/beer/bud-light-corn-syrup-andy-goeler-interview>.

intentionally trying to mislead consumers into believing that there is corn syrup or HFCS in the *Coors Light* and *Miller Lite* beers they drink, when there is not.

15. AB's claims that *Miller Lite* and *Coors Light* beers are "made with" corn syrup are false and misleading because they fail to provide consumers with the necessary context: that corn syrup is not present in the final beers. Rather than communicating a commensurate comparison, AB's Campaign misleads consumers into believing that corn syrup or HFCS is uniquely present in the *Miller Lite* and *Coors Light* beers and consumers should, therefore, be made specifically aware of the absence of this ingredient in *Bud Light*.

16. AB also seeks to devalue the *Coors Light* and *Miller Lite* brands, which are widely considered to be premium light beers, by falsely claiming that use of corn syrup is a cost-saving measure not worthy of more expensive beers. This false claim is belied by AB's own use of corn syrup in numerous of its own beers and alcoholic beverages, which are sold at premium price points, as summarized in Paragraph 9, herein.

17. AB's Campaign also dilutes the longstanding goodwill associated with the storied Coors and Miller brands, including the famous trademarks COORS LIGHT and MILLER LITE. AB launched and has defiantly continued its Campaign with the specific intent to damage the reputation of the *Coors Light* and *Miller Lite* brands and products, preying on consumers' negative association with the presence of HFCS in beverages and foods. Corn syrup is the punchline of the false claims; MillerCoors is the casualty of the misleading Campaign.

18. MillerCoors therefore respectfully seeks an immediate halt to AB's continued false and misleading advertising claims and willful trademark dilution.

JURISDICTION AND VENUE

19. This Court has personal jurisdiction over AB pursuant to Wis. Stat. 801.05 because AB advertises, ships, offers for sale, and sells products in/into Wisconsin and the Western District of Wisconsin. AB has also caused injury to people within and outside the State of Wisconsin by airing false and dilutive commercials on national television, aired in Wisconsin and the Western District of Wisconsin. These activities satisfy Wisconsin's long-arm statute and due process.

20. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 and supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

21. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) because, on information and belief, AB does a substantial amount of business in this district, has sold significant quantities of its products in this district, and has engaged and is engaging in statutory violations and activities that are causing substantial injury to MillerCoors in this district.

THE PARTIES

22. Plaintiff MillerCoors, LLC is a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business located at 250 South Wacker Drive, Suite 800, Chicago, Illinois 60606-5888.

23. Upon information and belief, Anheuser-Busch Companies LLC is a company organized and existing under the laws of Delaware, with its U.S. headquarters located in St. Louis, Missouri.

FACTS

I. The History of the Coors Light and Miller Lite Brands and Trademarks

24. Both the *Coors Light* and *Miller Lite* brands represent the long and storied history of MillerCoors. They are namesake, heritage brands, named for the founders of the company:

Miller Brewing was started in 1855 by Frederick Miller; Coors Brewing Company was started by Adolph Coors in 1873.

25. For decades, MillerCoors and its predecessors have proudly brewed and sold a number of iconic beer brands, including *Coors Light* and *Miller Lite*, throughout the United States and in many other parts of the world. *Miller Lite* is the second best-selling light beer in the United States, and *Coors Light* is the third best-selling brand in the category. Both brands are popular, low-calorie offerings from, and representations of, the signature house brands, Miller and Coors.

26. MillerCoors has used its MILLER LITE trademarks in connection with the sale of beer in commerce continually since at least 1975; it has used the COORS LIGHT trademarks in connection with the sale of beer in commerce continually since at least 1978.

27. Since the mid-1970s, MillerCoors has sold on average tens of millions of dollars-worth of both *Coors Light* and *Miller Lite* beer products each year throughout the United States.





28. Since the mid-1970s, MillerCoors has widely and extensively advertised and promoted the beers sold under the COORS LIGHT and MILLER LITE trademarks in the United States.

29. The annual investment in advertising and promoting the beers sold under the COORS LIGHT and MILLER LITE trademarks in the United States has exceeded hundreds of millions of dollars per year for the past ten years.

30. The COORS LIGHT and MILLER LITE trademarks are inherently distinctive or otherwise have acquired distinctiveness through years of use, advertising, and promotion, and are entitled to protection as trademarks.

31. MillerCoors is the owner of a number of United States Trademark Registrations for the “COORS,” “MILLER,” “COORS LIGHT,” and “MILLER LITE” marks, including those displayed below. These registrations are valid and subsisting, and are *prima facie* evidence of the validity of the registered trademarks and MillerCoors ownership of the marks pursuant to Section 33(a) of the Lanham Act (15 U.S.C. § 1115(a)):

Mark	Reg. No.	Reg. Date	Full Goods/Services
COORS LIGHT	1127061	November 27, 1979	(Int'l Class: 28) sporting goods-namely, flying saucers.
COORS LIGHT	1145223	December 30, 1980	(Int'l Class: 34) lighters.
COORS LIGHT	1684609	April 28, 1992	(Int'l Class: 32) beer.
COORS LIGHT	1725874	October 20, 1992	(Int'l Class: 25) clothing; namely, shirts, t-shirts, tank-tops, sweatshirts, sweat pants, jackets, shorts, hats, caps, visors, pants, socks, shoes, underwear, gloves.
COORS LIGHT THE SILVER BULLET	1748768	January 26, 1993	(Int'l Class: 32) beer.
COORS LIGHT	2340365	April 11, 2000	(Int'l Class: 21) beverage glassware, portable coolers, beer steins, bottle openers, portable ice chests for food and beverages, thermal insulated wrap for cans to keep the contents cold or hot, insulating sleeve holders for beverage cans, mugs, cups, pitchers, ice buckets, portable beverage dispensers, containers for household use, serving trays not of precious metal.
COORS LIGHT	2451156	May 15, 2001	(Int'l Class: 42) computer services, namely, providing a wide range of information relating to beer, malt beverages and the environment by means of a computer network.
MILLER LITE FREE RIDES	4198522	August 28, 2012	(Int'l Class: 35) Promoting public awareness of the need for moderation and responsibility in drinking alcoholic beverages by arranging for free transportation to the public.
COORS LIGHT FREE RIDES	4219588	October 2, 2012	(Int'l Class: 35) Promoting public awareness of the need for moderation and responsibility in drinking alcoholic beverages by arranging for free transportation to the public.

Mark	Reg. No.	Reg. Date	Full Goods/Services
	4878646	December 29, 2015	(Int'l Class: 32) beer.
	4878645	December 29, 2015	(Int'l Class: 32) beer.
	4952666	May 3, 2016	(Int'l Class: 32) beer
		Published for Opposition on January 15, 2019	(Int'l Class: 32) beer

32. And in particular, as a result of the long-term use, advertising, and promotion of products under the COORS LIGHT and MILLER LITE trademarks and the popularity of the *Coors Light* and *Miller Lite* products, the COORS LIGHT and MILLER LITE trademarks have become famous and widely-recognized by the general consuming public of the United States as designating beer products originating exclusively from MillerCoors, and have developed tremendous value and goodwill.

II. All Beer Manufacturing Uses Carbohydrates, Such as Sugar, in the Initial Stages

33. As with all beer manufacturing, the fermentation process for *Coors Light* and *Miller Lite* products uses some form of carbohydrate or sugar as an adjunct. During this integral process, yeast breaks down and consumes the carbohydrate or sugar to yield the desired byproduct: alcohol. For both *Coors Light* and *Miller Lite*, MillerCoors uses corn syrup as the sugar for this fermentation process. AB also has a number of beers for which it uses corn syrup in the same way.

34. Once the fermentation process is complete, no corn syrup remains in either *Miller Lite's* or *Coors Light's* final beer products. Contrary to the implications created by AB's Campaign, MillerCoors does not add corn syrup to the final *Coors Light* or *Miller Lite* products.

35. Upon information and belief, like MillerCoors, AB also uses carbohydrates during the fermentation process to produce the alcohol contained in its final beer products, including *Bud Light*. AB's sugar of choice for *Bud Light* is purportedly rice, but it uses corn syrup in many of its other beers and alcoholic products. There is no meaningful health or safety difference between the rice used for *Bud Light* brewing and the corn syrup used by *Miller Lite* and *Coors Light*. They serve as fermentation adjuncts—a source of food for yeast that is broken down during the brewing process.

III. Consumers Have Negative Associations with Corn Syrup as an Ingredient in Beverages

36. It is widely recognized in the food and beverage industry that “[t]here are various public relations concerns with HFCS.”²⁰ Large cities like New York have promoted public health campaigns designed to specifically call out HFCS in foods and beverages.²¹

37. Many studies examining consumers’ purchase habits show that they care about food and beverage ingredients of the items they eat and drink, and they especially care about HFCS: “the absence of high fructose corn syrup is tied with GMO-free as the most important attribute [for health] for North American respondents.”²²

38. In fact, the top Google search results of the words “high fructose corn syrup,” other than the Wikipedia page for HFCS, yield the following headlines: “High-fructose corn syrup:

²⁰ https://en.wikipedia.org/wiki/High-fructose_corn_syrup; <https://www.forbes.com/sites/kavinsenapathy/2016/04/28/pepsi-coke-want-you-to-think-real-sugar-is-good-for-you/#5ee9c06164d1>; <https://www.ecowatch.com/scientists-find-high-fructose-corn-syrup-is-as-bad-for-you-as-you-migh-1882000552.html>. (last visited Feb. 11, 2019)).

²¹ <http://www.eatmedaily.com/2009/08/nyc-subway-ads-human-fat-pouring-out-of-bottles/>

²² <https://www.nielsen.com/content/dam/nielsen-global/eu/nielseninsights/pdfs/Nielsen%20Global%20Health%20and%20Wellness%20Report%20-%20January%202015.pdf> at 9; *see also* <http://knowledge.wharton.upenn.edu/article/marketing-to-digital-natives/>.

Any health concerns? - Mayo Clinic,”²³ “6 Reasons Why High-Fructose Corn Syrup Is Bad for You – Healthline,”²⁴ and “5 Reasons High Fructose Corn Syrup Will Kill You - Dr. Mark Hyman.”²⁵ And because of the high-profile and widespread nature of these articles and campaigns, the words “corn syrup” also carry negative connotations by association with HFCS.

IV. The Kick-off to AB’s False and Misleading Campaign: Super Bowl LIII

39. On February 3, 2019, AB launched its false and misleading advertising Campaign, claiming that *Miller Lite* and *Coors Light* products are made with, or brewed from, corn syrup. And they did so in front of the largest possible audience. It is widely-recognized that Super Bowl Sunday draws more viewers than any other television event during the entire year. For this reason, major brands including insurance companies, car manufacturers, and alcoholic beverage companies like AB spend millions of dollars creating television commercials with high-quality production elements and special effects. In fact, these high-profile advertisements are one of the main draws for many Super Bowl viewers.

40. This year, 98.2 million viewers watched Super Bowl LIII (and the ads), and 32.3 million engaged in social media activity related to the game and the advertisements.²⁶ This number of viewers eclipses the next-most-watched television event, the 2019 AFC Championship Game (which drew 53.9 million viewers), by more than 40 million viewers.²⁷

41. Because of its extraordinary viewership, it is estimated that this year’s Super Bowl advertising commanded between 5.1 and 5.3 million dollars per 30 seconds of media placement,

²³ <https://www.mayoclinic.org/healthy-lifestyle/nutrition-and-healthy-eating/expert-answers/high-fructose-corn-syrup/faq-20058201>

²⁴ <https://www.healthline.com/nutrition/why-high-fructose-corn-syrup-is-bad>

²⁵ <https://drhyman.com/blog/2011/05/13/5-reasons-high-fructose-corn-syrup-will-kill-you/>

²⁶ <https://www.nielsen.com/us/en/insights/news/2019/super-bowl-liii-draws-98-2-million-tv-viewers-32-3-million-social-media-interactions.html>.

²⁷ <https://tvbythenumbers.zap2it.com/weekly-ratings/broadcast-top-25-network-rankings-jan-14-20-2019/>.

not including the extensive production costs.²⁸ AB ran a total of seven advertisements during Super Bowl LIII, and spent an estimated \$48.875 million in media placement costs. Of those seven advertisements, four were for *Bud Light*, carrying an estimated \$21.25 million price tag for that media placement alone. Three of AB's *Bud Light* Super Bowl LIII commercials expressly attack *Coors Light* and *Miller Lite* by portraying a false parallel: AB states that *Coors Light* and *Miller Lite* are made with or brewed solely or predominantly "with corn syrup," while *Bud Light* "is made with rice, barley and hops." In fact, the longest commercial spot of the Campaign juxtaposes a large barrel of "corn syrup" destined for the *Miller Lite* and *Coors Light* castles against four smaller barrels of "water," "rice," "barley," and "hops" that reside in the *Bud Light* castle. Not only does this imply that corn syrup is the only or primary ingredient in *Miller Lite* and *Coors Light*, but the advertisements also falsely imply that there is corn syrup present in the *Coors Light* and *Miller Lite* final products, rendering these beers inferior.

42. AB's misleading, deceptive, and disparaging Campaign is designed to prey on consumers' fears associated with sugar generally, and corn syrup specifically, especially since HFCS has been covered extensively in mass media as causing adverse health effects including obesity, type-2 diabetes, and heart disease.

A. AB's Misleading and Harmful "Special Delivery" Ad.

43. The longest, 60-second television commercial titled "Special Delivery" first aired during the first quarter of Super Bowl LIII, when the maximum audience was focused on the game and commercials. It opens with a scene depicting the purported *Bud Light* King. The *Bud Light* Knight and the Wizard are discussing how *Bud Light* beer is brewed. Behind the men are four barrels labeled as "Water," "Rice," "Hops," and "Barley" respectively. The *Bud Light* King explains: "And that's how you brew it." One of the *Bud Light* King's knights then enters with an

²⁸ <https://www.foxbusiness.com/media/super-bowl-commercial-cost-surpasses-5m-for-30-second-spot-report>.

oversized barrel labeled “Corn Syrup” and exclaims, “My King, this corn syrup was just delivered.”

44. A screen shot of the frame is included below:



45. The barrel of corn syrup is as large, or larger than, the barrels labeled “water,” “rice,” “barley,” and “hops,” suggesting that it is intended to be used in similar quantities as those other ingredients.

46. The *Bud Light* King then indicates that the barrel of corn syrup does not belong to the *Bud Light* Kingdom because *Bud Light* is not brewed with corn syrup. The knight explains, “*Miller Lite* uses corn syrup,” which prompts the *Bud Light* King to declare that the giant barrel of corn syrup should be delivered to the *Miller Lite* Kingdom at once. The group embarks on a dangerous journey to deliver the barrel to *Miller Lite*.

47. Once the *Bud Light* King arrives at the *Miller Lite* Castle, he announces, “Oh brewers of *Miller Lite*, we received your corn syrup by mistake.” A man at the top of the *Miller Lite* Castle explains, “That’s not our corn syrup, we received our shipment this morning . . . Try the *Coors Light* Castle, they also use corn syrup.”

48. A screen shot of the frame, with the *Miller Lite* branding and products prominently featured, is included below:



49. Upon arriving at the *Coors Light* Castle, the *Bud Light* King again announces, “Oh brewers of *Coors Light*, is this corn syrup yours?” A bumbling man at the top of the *Coors Light* Castle states, “Well, well, well, looks like the corn syrup has come home to be brewed”, and then “To be clear, we brew *Coors Light* with corn syrup.”

50. A screen shot of the frame, with the *Coors Light* branding and products prominently featured, is included below:



51. The commercial falsely claims that the corn syrup is going to be “brewed.” It does not mention barley, hops, or even water as ingredients in *Coors Light* or *Miller Lite*.

52. The commercial then closes with the statement “*Bud Light*, Brewed with no Corn Syrup.” A screenshot of the ending frame is included below:



53. Between February 3 and March 18, 2019, the 60-second and 30-second “Special Delivery” ads aired a combined 1,006 times on the following networks: AMC, BET, Bravo, CBS, CBS Sports Network, Comedy Central, E!, ESPN, ESPN2, Food Network, Fox Sports 1, FX, FXX, IFC, Nat Geo, NBC Sports Network, NFL Network, Paramount Network, SYFY, TBS, TNT, Travel Channel, truTV, USA Network, VH1, and WGN. It has remained active on the Twitter feed and other social media platforms, including *Bud Light*’s own Twitter feed.

B. AB’s Misleading and Harmful “Shop Talk” Ad.

54. In another 15-second television spot titled “Shop Talk” that first aired during Super Bowl LIII, two medieval barbers are depicted giving haircuts to villagers and discussing the respective ingredients contained in *Coors Light* versus *Bud Light*. The first barber explains that “*Coors Light* is made with corn syrup,” and the second barber points out that *Bud Light* is

made with no corn syrup. As the spot concludes, AB states, “*Bud Light*. Brewed with no Corn Syrup.”

55. A screenshot of the closing scene is included below:



56. Between February 3 and March 18, 2019, “Shop Talk” aired 273 times on the following networks: AMC, BET, Bravo, CBS, CBS Sports Network, Comedy Central, E!, ESPN, ESPN2, Food Network, Fox Sports 1, Fox Sports 2, FX, FXX, IFC, Nat Geo, NFL Network, Paramount Network, Syfy, Travel Channel, truTV, and VH1. It has remained active on Twitter and other social media platforms.

C. AB’s Misleading and Harmful “Trojan Horse” Ad.

57. In a final 15-second television commercial titled “Trojan Horse Occupants: Whispering Beer Ingredients,” two occupants inside a Trojan horse are depicted quietly whispering the respective ingredients of *Miller Lite* and *Bud Light*:

Male 1: Miller Lite is made with barley, water, hops, hop extract, and **corn syrup**

Male 2: Bud Light is made with barley, rice, water, hops, and no corn syrup.

58. A screen shot of the opening frame of the commercial is included below:



59. The “Trojan Horse” ad closes with a third person admonishing the other two for sharing the respective ingredients, implying that they are intended to be secret:

Male 3: Hey, is someone whispering beer ingredients in there?
Unknown: Shhh. Shut up.

60. The ad then concludes: “*Bud Light*. Brewed with no Corn Syrup.” A screenshot of the closing scene is included below:



61. Between February 3 and March 18, 2019, “Trojan Horse Occupants: Whispering Beer Ingredients” aired 795 times on the following networks: Bravo, CBS, CBS Sports Network, Comedy Central, Discovery Channel, E!, ESPN, ESPN2, Food Network, Fox Sports 1, Fox Sports 2, FX, FXX, IFC, Nat Geo, Nat Geo Wild, NBC Sports Network, NFL Network,

Paramount Network, SyFy, TBS, TNT, Travel Channel, truTV, and VH1. It has remained active on Twitter and other social media platforms.

D. AB's Recently-launched, Misleading and Harmful "Mountain Folk" and "Cave Explorers" Ads.

62. On February 18, 2019, AB launched two more ads to further its false and misleading Campaign. One is a 30-second spot, featuring three men on different mountain tops yelling the respective ingredients of *Coors Light*, *Miller Lite*, and *Bud Light* to each other:

Male 1: Coors Light is made with barley, water, hop extract, and **corn syrup**

Male 2: Miller Lite is made with barley, water, hops, hop extract, and **corn syrup**

Male 3: Bud Light is made with barley, rice, water, hops, and no corn syrup.

63. The ad then concludes: "*Bud Light*. Brewed with no Corn Syrup." A screenshot of the closing scene is included below:



64. The same day, AB launched another 15-second ad featuring cave explorers reading the ingredients of *Coors Light* and *Bud Light* on the inside of a cave, where the *Coors Light* ingredients are written in a messy, disorganized way, compared to those for *Bud Light* that are written in a neater script and layout. The explorers recite the respective ingredients as follows:

Male 1: Coors Light is made with barley, water, hop extract, and **corn syrup**

Male 2: Bud Light is made with barley, rice, water, hops, and no corn syrup.

65. The ad then concludes: “*Bud Light*. Brewed with no Corn Syrup.” A screenshot of the closing scene is included below:



E. AB's Misleading and Harmful Ads, “Thespians Performing Beer Ingredients,” launched during the 2019 Oscars broadcast.

66. On February 24, 2019, AB launched two more ads to capitalize on the popular viewership of the Oscars. The first is a 15-second spot, where two female actors come onto stage and dramatically state the following:

Female 1: Coors Light is made with barley, water, hop extract, and corn syrup
Female 2: Bud Light is made with barley, rice, water, hops, and no corn syrup.

67. The ad then concludes: “*Bud Light*. Brewed with no Corn Syrup.” A screenshot of the closing scene is included below:



68. The second ad is a 24-second mock film preview, showcasing the same two female actors. The viewer cannot hear what the actors are saying, but against the backdrop of dramatic and fast-paced music, the advertisement shows the following still images in quick succession:



69. Again, this misleading promotion falsely implies that corn syrup is present in the *Miller Lite* bottle that consumers drink from, unlike *Bud Light*.

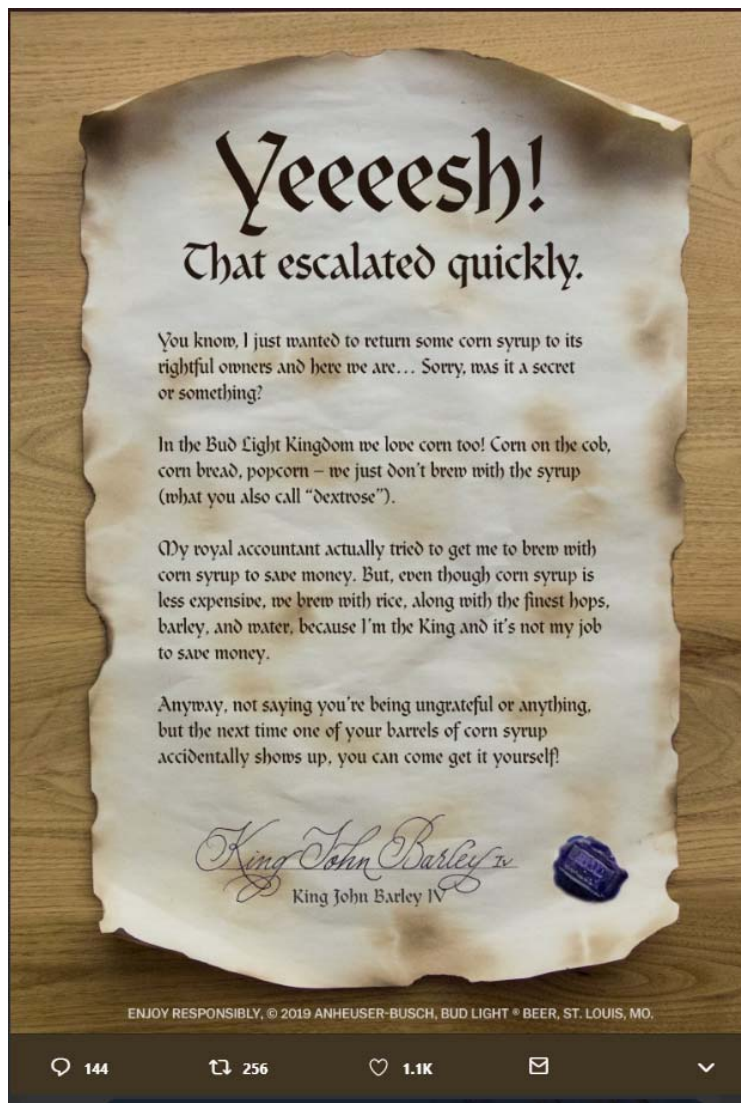
V. The Amplification and Spread of AB's Misleading and Harmful Campaign

70. AB's Super Bowl LIII commercials were just the first shot. AB's plans for a sustained and continued attack of nationwide advertising, across multiple media, designed to mislead consumers into believing that *Miller Lite* and *Coors Light* include significant amounts of corn syrup or HFCS are clear. Since the Super Bowl, AB has continued to air the primary "Special Delivery" commercial, a 30-second version of that commercial, as well as other commercials, point-of-sale advertising, print, social media, packaging materials, and out-of-home billboards and signs, all designed to perpetuate the false claims regarding the role of corn syrup in brewing *Coors Light* and *Miller Lite*.

71. In immediate response to MillerCoors defense in social media, and other backlash from U.S. corn growers and the media generally resulting from the Super Bowl LIII commercials, AB doubled-down on its false statements that *Coors Light* and *Miller Lite* contain corn syrup. On Wednesday, February 6, 2019, AB tweeted a post that expressly responded to the

media backlash over the Campaign, and claimed that MillerCoors uses corn syrup solely to save money whereas AB rejected corn syrup in favor of more expensive rice: “even though corn syrup is less expensive, we brew with rice, along with the finest hops, barley, and water, because I’m the King and it’s not my job to save money.” Through this posting, AB strongly signaled its intention to continue communicating its claim that *Bud Light* is superior and more expensive to produce than *Coors Light* and *Miller Lite* by virtue of the fact that those beers purportedly contain corn syrup while *Bud Light* does not.

72. AB’s post on Twitter from Wednesday, February 6, 2019 is included below:



73. AB's intention to continue to draw attention to the alleged cheaper nature of corn through its Campaign was recently confirmed when *Bud Light's* Mr. Goeler admitted so:

Number one, [corn syrup] is a less expensive ingredient, and we charge a lot less for our value brands

Rice is a critical component of this [*Bud Light's*] recipe. It's an agricultural product. It's whole grain rice. It's very expensive, and it's what gives *Bud Light* its crispness.... Corn syrup, I think, is a processed ingredient. It's a less costly ingredient.²⁹

74. Of course, this claim is contradicted by the fact that AB uses corn syrup in many of its own so-called above-premium products, such as Stella Artois Cidre and Bon & Viv Spiked Seltzer beverages.

75. Also immediately following Super Bowl LIII, AB began selling *Bud Light* in updated packaging, further indicating that the Super Bowl LIII launch of the Campaign is just the beginning. An image of the packaging is included below:



76. The widest side of the packaging features an image of a *Bud Light* draft beer, and beside that image states “Hops. Barley. Water. Rice.” Below those words appear three icons, the first of which is an image of a drop of liquid, over which the classic “no” symbol appears. Below

²⁹ <https://www.foodandwine.com/beer/bud-light-corn-syrup-andy-goeler-interview>

that image are the words “No Corn Syrup.” This symbol sits alongside two others, “No Preservatives,” and “No Artificial Flavors,” implying that corn syrup is comparable to preservatives and artificial flavors—additives that consumers dislike and are found in the finished products of some food and drink items. The same statement appears on the narrow side of the packaging, but instead of the images and the classic “no” symbols, AB affirmatively states below its ingredients that its beer contains “No Corn Syrup”, “No Preservatives,” and “No Artificial Flavors.”

77. Use of the “No Corn Syrup” symbol clearly implies that it is an additive or otherwise present in other final beer products, including those of AB’s main rivals, *Miller Lite* and *Coors Light*, which is false. With the *Bud Light* packaging updated in conjunction with the launch of the AB Campaign, the purposely misleading message to consumers is obvious: *Coors Light* and *Miller Lite* contain corn syrup and *Bud Light* does not.

78. AB’s dissemination of its false claims has quickly spread into other media beyond mobile devices and packaging. AB has also taken to print, placing the following full-page advertisement in the Chicago Tribune on February 11, 2019:



79. AB has also taken its false message on the road, placing billboards during the week of February 11, 2019 that promote the Campaign's misleading and damaging claim that corn syrup is present in *Coors Light* and *Miller Lite* products, such as these seen in Tampa, Florida and St. Louis, Missouri:



VI. AB's Campaign is False and Highly-Misleading

80. AB's Campaign contains false and misleading statements about *Coors Light* and *Miller Lite*. Specifically, the "Special Delivery" commercial implies that *Coors Light* and *Miller Lite* beers are primarily made with corn syrup, which is false. In fact, when the purported *Bud*

Light King and his entourage arrive at the *Coors Light* Castle, the man standing atop the castle screams, “Well, well, well, the corn syrup has come home to be brewed,” a statement that communicates to consumers that *Coors Light* and *Miller Lite* are brewed entirely of corn syrup.

81. The “Shop Talk,” “Trojan Horse,” “Mountain Folk,” “Cave Explorers,” and “Thespians Performing Beer Ingredients” 15-second commercials state that *Coors Light* and *Miller Lite* are ***made with corn syrup***, a false and misleading statement as corn syrup is not, in fact, present in the final *Coors Light* and *Miller Lite* products.

82. AB continues to perpetuate its false, misleading, and disparaging statements about corn syrup in *Miller Lite* and *Coors Light* on social media. In fact, as of March 18, 2019, the key image from AB’s Campaign is the main backdrop to AB’s *Bud Light* Twitter Account:



83. Further, the official Twitter account for AB’s Natural Light beer recently promoted a photo of “The ‘Lite’ Family Portrait,” showing a bottle of Karo Lite Syrup alongside a can of *Miller Lite*.



84. The Campaign impliedly communicates false claims that are likely to mislead consumers into drawing a number of incorrect and harmful inferences. First, the Campaign contains repeated statements that *Coors Light* and *Miller Lite* are made with corn syrup. Reasonable consumers are likely to take away the message that the final *Coors Light* and *Miller Lite* beers actually contain corn syrup, which is untrue.

85. And reasonable consumers are also likely to be confused into believing, based on the messages in AB's Campaign, that *Coors Light* and *Miller Lite* contain HFCS, which is entirely false. Not only do industry studies and reports indicate that consumers are likely to be confused, but AB's own specific focus-group research evinces this. And the significant negative press about HFCS, tying the ingredient to obesity, type-2 diabetes, and heart disease, leads reasonable consumers to believe that HFCS is unhealthy.

86. Further, the Campaign's false statements that *Coors Light* and *Miller Lite* contain corn syrup will lead reasonable consumers to likely conclude that *Coors Light* and *Miller Lite* beers are poor choices for calorie-conscious consumers. This overall net impression is reinforced in the "Special Delivery" commercial because the kingdom members responsible for transporting

the barrel of corn syrup are depicted in extremely dangerous situations, signaling that corn syrup, in and of itself, is a dangerous substance.

87. Finally, the Campaign's false claims suggesting that corn syrup is the only, or a predominant, component of the *Coors Light* and *Miller Lite* brewing processes, in contrast to *Bud Light*, which is claimed to use only rice, barley and hops, is highly likely to communicate the false implication that *Bud Light* tastes better, or more like beer should taste, than either *Miller Lite* or *Coors Light*.

VII. AB's False and Misleading Ad Campaign has also Diluted, and Will Continue to Dilute, the Famous COORS LIGHT and MILLER LITE Trademarks

88. Upon information and belief, AB is aware of MillerCoors ownership of the COORS LIGHT and MILLER LITE trademarks, as well as the Miller and Coors trademarks.

89. In its Campaign, AB specifically uses the trademarks for COORS LIGHT and MILLER LITE to make false statements denigrating the *Coors Light* and *Miller Lite* beers. The Campaign maligns the *Coors Light* and *Miller Lite* products by falsely claiming that corn syrup is in their final iterations. These false statements impact and harm not only the *Coors Light* and *Miller Lite* products themselves, but also the famous, longstanding, Miller and Coors brands in which MillerCoors has invested billions of dollars promoting and protecting over decades.

90. The Campaign's willfully negative statements regarding *Coors Light* and *Miller Lite* beers are likely to dilute the tremendous goodwill and iconic standing of the famous COORS LIGHT and MILLER LITE marks, and the Miller and Coors brands generally.

91. AB's Campaign is already having an impact in the way consumers view the MillerCoors brands, damaging the reputation of the brands. This is evident from pictures posted to, and statements made on, social media.

92. The negative impacts of the Campaign abound on Twitter, with even Josh Charles, a celebrity actor with over 137,000 Twitter followers, characterizing corn syrup as “poison” in connection with the Campaign:





Bruno J. Navarro @Bruno_J_Navarro · Feb 3

Much of the reaction on social media to the Bud Light ads suggests most people didn't know beer contained corn syrup at all. Perhaps the corn lobby wanted to keep it that way.



Bud Light Gets Earful From Angry Corn Lobby After Super Bowl Ad

Bud Light's Super Bowl campaign called out competitors that use corn syrup -- and the corn lobby is not happy about it.

bloomberg.com

17 108 328



Alex @Alex00792692

Follow

Replying to @Bruno_J_Navarro

Bad enough we got Corn in our Gas , but we have to have it in our beer too

12:14 PM - 4 Feb 2019



Todd @turbineguy43 · Feb 15

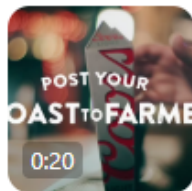
Replying to @CoorsLight

So do you really use high fructose corn syrup? I won't drink your beer anymore if you do.



A New Year @Magacheers · Feb 15

Is it true that there's corn syrup in Coors Light?



Coors Light @CoorsLight

Today, in bars, we are raising a Coors Light to the farmers who work hard to put food on our plates & beer in our glasses. We are proud of the ingredients in our beer & the farmers who grow them. Join us in raising a cold one...

93. As another example, one Facebook user posted a picture from a grocery store featuring a display including AB's claim that consumers should "Find out what's in your beer," alongside cases of *Miller Lite* with packaged ears of corn and bottles of Aunt Jemima syrup—a product notorious for containing HFCS—placed on top. This demeaning product display that is being widely-posted on the internet is a direct result of AB's Campaign and is included below:



94. And on information and belief, an AB distributor created the following flyer demeaning *Coors Light* and *Miller Lite* as "Value Beers," further propagating AB's false claims that these MillerCoors products are cheap because of their use of corn syrup in the brewing process:



95. MillerCoors has invested substantial resources in the development and marketing of the COORS LIGHT and MILLER LITE trademarks. If consumers are falsely led to believe that *Coors Light* and *Miller Lite* contain corn syrup, they will view both beers as inferior or undesirable products, especially for calorie-conscious consumers, thereby tarnishing both brands.

96. The significant reputational damage being caused by the misleading Campaign has damaged, and will continue to erode, the significant trust that MillerCoors has built for both brands in the minds of consumers.

97. Unless enjoined, AB's false and misleading claims are likely to irreparably harm MillerCoors goodwill and reputation as a brewer of high-quality beers, as well as dilute MillerCoors famous COORS LIGHT and MILLER LITE trademarks and irreparably harm the value and goodwill of those marks.

98. Unless enjoined, AB's false claims are also likely to result in a significant loss of sales by MillerCoors. Consumers who are falsely led to believe that MillerCoors light beer products contain corn syrup, and are, therefore, an undesirable choice, are less likely to purchase *Coors Light* and *Miller Lite* products.

FIRST CAUSE OF ACTION FOR FALSE ADVERTISING
(Lanham Act Violation, 15 U.S.C. § 1125(a))

99. MillerCoors repeats and realleges each and every allegation contained in Paragraphs 1 through 98 as if fully set forth herein.

100. AB sells *Bud Light* in interstate commerce and is engaged in an advertising Campaign in connection with the marketing of this product.

101. The crux of AB's Campaign is that, unlike its product, *Miller Lite* and *Coors Light* are not only brewed with, but also contain, corn syrup or HFCS in their final iterations.

102. AB's claims made in the Campaign are false and misleading.

103. Upon information and belief, AB's claims are likely to deceive or confuse a substantial segment of the buying public.

104. AB's deceptive conduct is and has been willful and deliberate, and has injured and continues to injure MillerCoors and consumers.

105. AB knows or should know that the claims it is making regarding *Coors Light* and *Miller Lite* are false and misleading.

106. AB's advertising Campaign violates Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

107. MillerCoors has been and continues to be damaged by AB's false advertising, including through direct diversion of sales from MillerCoors to AB and the lessening of the goodwill that MillerCoors *Coors Light* and *Miller Lite* beers have among the buying public.

108. MillerCoors has no adequate remedy at law to redress these injuries.

SECOND CAUSE OF ACTION FOR FEDERAL TRADEMARK DILUTION
(Lanham Act Violation, 15 U.S.C. § 1125(c))

109. MillerCoors repeats and realleges each and every allegation contained in Paragraphs 1 through 108 as if fully set forth herein.

110. MillerCoors is the exclusive owner of all right, title, and interest in and to all the marks listed in Paragraph 31.

111. MillerCoors COORS LIGHT and MILLER LITE trademarks are famous and distinctive within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), and have been famous and distinctive since long before AB began using the marks in its Campaign. Among other things, MillerCoors COORS LIGHT and MILLER LITE trademarks: (1) have a high degree of inherent distinctiveness and secondary meaning; (2) have been used continuously for decades throughout the United States to promote beer; (3) have been used in connection with extensive advertisement and promotional campaigns throughout the United States; (4) are among the most well-known and widely-recognized brands in the United States; (5) have an extremely high-degree of recognition among consumers; and (6) are the subject of valid and subsisting trademark registrations under the Lanham Act on the Principal Register.

112. Long after the MillerCoors COORS LIGHT and MILLER LITE trademarks became famous, AB, without authorization from MillerCoors, used the COORS LIGHT and MILLER LITE trademarks in its false and misleading Campaign.

113. AB's use of the COORS LIGHT and MILLER LITE trademarks in its Campaign has diluted and damaged, and is likely to continue to dilute and damage, the distinctive quality and tremendous goodwill of MillerCoors famous COORS LIGHT and MILLER LITE trademarks.

114. AB's Campaign constitutes trademark dilution of a famous mark in violation of Section 43(c) of the Lanham Act (15 U.S.C. §1125(c)) causing irreparable injury to MillerCoors.

115. MillerCoors is informed and believes that AB acted willfully in its efforts to dilute and damage the COORS LIGHT and MILLER LITE trademarks.

116. MillerCoors has no adequate remedy at law to redress these injuries.

PRAYER FOR RELIEF

WHEREFORE, MillerCoors respectfully requests that the Court enter judgment as follows:

A. An Order adjudging that AB violated Section 43(a) of the Lanham Act, 15 U.S.C. §§ 1125(a) and (c), and Wis. Stat. §§ 100.18 *et seq.*

B. An Order preliminarily and permanently enjoining AB from disseminating or causing the dissemination of the Campaign's false and misleading claims alleged herein.

C. An Order preliminarily and permanently enjoining AB from airing, posting, or otherwise causing the dissemination of advertisements referred to as "Special Delivery," "Medieval Barbers," "Trojan Horse," "Mountain Folk," "Cave Explorers," and "Thespians Performing Beer Ingredients," or any variations thereof, to appear in any medium.

D. An Order preliminarily and permanently enjoining AB from disseminating, or causing the dissemination of, any and all other advertisements, packaging, or other promotional materials claiming, whether expressly or by implication, that:

- a. *Coors Light* and/or *Miller Lite* contain corn syrup or high-fructose corn syrup (HFCS); and/or
- b. *Coors Light* and/or *Miller Lite* are "made with" or "brewed with corn syrup" unless also expressly stating that corn syrup is completely converted into alcohol during the brewing process and not present in the final products; and/or
- c. *Coors Light* and/or *Miller Lite* are inferior to, or taste worse than, *Bud Light* because they are brewed using corn syrup; and/or
- d. *Coors Light* and/or *Miller Lite* are not made with barley and hops; and/or

e. *Coors Light* and/or *Miller Lite* use more corn syrup than any other component.

E. An Order permanently enjoining AB from making any of the advertising claims challenged as false or misleading in this Complaint in any commercials, advertisements, or other promotional materials;

F. An Order requiring AB to disseminate corrective advertising to correct the false and misleading impressions created among consumers by the false claims contained in the Campaign.

G. An Order directing an accounting by AB of their gains, profits, savings, and advantages realized by reason of its false advertising and dilution, awarding MillerCoors damages to the fullest extent allowed by law, and trebling MillerCoors recovery pursuant to Section 35 of the Lanham Act, 15 U.S.C. §1117;

H. An Order granting MillerCoors its costs and disbursements in this action, including its reasonable attorneys' fees; and

I. An Order granting MillerCoors such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, MillerCoors demands trial by jury in this action of all issues so triable.

Dated: March 21, 2019
Madison, Wisconsin

/s/ Donald Schott
Donald Schott
don.schott@quarles.com
Anita Marie Boor
anita.boor@quarles.com
QUARLES & BRADY, LLP
33 East Main Street, Suite 900

Madison, WI 53703
(608) 283-2452

Christopher A. Cole
ccole@crowell.com

David Ervin
dervin@crowell.com

CROWELL & MORING LLP
1001 Pennsylvania Avenue NW
Washington, D.C. 20004
(202) 624-2701

Holly Melton

hmelton@crowell.com

CROWELL & MORING LLP
590 Madison Avenue, 20th Floor
New York, NY 10022
(212) 895-4258